

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SOUNDBRUSH RECORDS LLC,) Index No. 1:14-cv-1788 (DLI) (LB)
Plaintiff-Counterclaim Defendant,)
-against-)
LEAFNOTES INC., JAYSON RHYNAS and) **PARTIES' JOINT REPORT**
BASIL AL-DAJANE,) **OUTLINING DISCOVERY PLAN**
Defendants-Counterclaimants.)
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Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure (the “Federal Rules”), Plaintiff-Counterclaim Defendant Soundbrush Records LLC (“Plaintiff”) and Defendants-Counterclaimants Leafnotes Inc., Jayson Rhynas, and Basil Al-Dajane (“Defendants”) (together, the “Parties”) held their discovery and planning conference by teleconference on August 12, 2014. They submit the following as their joint report:

1. Initial Disclosures. The Parties acknowledge that Federal Rule 26(a)(1)(A)(ii) contemplates that electronically stored information (“ESI”) will be provided (either by copy or by a description of category and location) with each parties’ initial disclosures; however, the Parties have agreed, as a matter of economy, not to require disclosure of ESI until requests for production or interrogatories are served, and only then as responsive to those requests or interrogatories. Beyond the foregoing, the Parties do not believe that any other changes are necessary to the form, timing, or requirements of mandatory disclosures under Rule 26(a). The Parties will exchange such disclosures on August 13, 2014. In addition, Plaintiff has informed Defendants that it will request an adjournment of the initial court conference, currently scheduled for August 20, 2014, to September 3, 2014. Defendants do not object to this adjournment.

2. *Necessary Subjects for Discovery.* The Parties have agreed that discovery should be focused generally on the following categories of information:

- Plaintiff's development, marketing, and distribution of goods and services
- Defendants' selection of the "Soundbrush" name
- Defendants' use of the "Soundbrush" name
- Defendants' channels of distribution for the alleged Infringing App
- Defendants' revenues derived from the alleged Infringing App

Defendants further contend that discovery should include topic of third parties' development, marketing, and distribution of goods and services using the name "Soundbrush" or "Sound Brush." Plaintiffs disagree with this contention.

3. *Electronically Stored Information.* The Parties have discussed the probable need for the production of relevant, discoverable ESI, including whether such ESI is reasonably accessible. At present, the Parties anticipate that discovery will be limited to data reasonably available to the Parties in the ordinary course of business. To the extent any discovery request may call for materials beyond this scope, the Parties agree to meet and confer in good faith.

4. *Timing of Discovery.* The Parties have tentatively agreed that the cutoff for fact discovery be set for February 13, 2015 and that the cutoff for expert discovery be set for May 8, 2015. The Parties respectfully request that the dates for a pretrial conference and the commencement of trial be set thereafter at the convenience of this Court. The Parties reserve their respective rights to seek extensions of these deadlines as may become necessary during the pendency of this action.

5. Changes to the Limits Imposed by the Federal or Local Rules. The Parties do not believe that any changes are necessary to the limitations on discovery imposed by either the Federal or Local Rules.

6. Need for Protective Order. The Parties acknowledge that documents that will be needed to prepare for trial in this action contain confidential business information that the Parties do not wish to be disclosed to the public at large. The Parties are engaged in substantive negotiations to agree on the terms and procedures for a Stipulated Protective Order that the Parties intend to present to the Court for approval and signing no later than September 10, 2014.

7. Other matters. The Parties discussed settlement of this suit. No settlement is imminent at this time.

Dated: New York, New York
August 13, 2014

/s/ Mark S. Pincus

Mark S. Pincus (MP-4703)
Pincus Law LLC
111 Broadway, 18th Floor
New York, NY 10006
Tel: (212)-962-2900
mark@pincus-law.com

*Attorneys for Defendants Leafnotes, Inc.,
Jayson Rhynas, and Basil Al-Dajane*

/s/ Toby M.J. Butterfield

Toby M.J. Butterfield
Andrew D. Jacobs
488 Madison Avenue, 10th Fl
New York, New York 10022
Tel: (212) 908-0120
Fax: (212) 593-9175
tbutterfield@fkks.com
ajacobs@fkks.com

Attorneys for Plaintiff Soundbrush Records LLC